

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

PRINCE ALLEN MARSH,

Plaintiff,

v.

DELAWARE STATE UNIVERSITY, DR.  
CHARLES SMITH, DREXEL BALL, KAY  
MOSES, and LOWAN PITT,

Defendants.

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CIVIL ACTION NO. 05-087 (JJF)

JURY TRIAL DEMANDED

**ANSWER OF DEFENDANT DREXEL BALL TO PLAINTIFF'S COMPLAINT WITH  
AFFIRMATIVE DEFENSES**

**Preliminary Statement**

Defendant Drexel Ball denies the averments on page 1 of Plaintiff's Complaint that plaintiff is entitled to injunctive relief. Defendants further respond to each numbered allegation in the Complaint as follows:

1. Denied.

2. Admitted on information and belief.

3. Admitted in part, denied in part. It is admitted that plaintiff was enrolled at Delaware State University (DSU) in September 2001, and that he received a track scholarship.

The remaining allegations are denied.

3.(sic) Denied.

4. Denied.

5. Denied.

6. Denied. After reasonable investigation, answering defendant is without knowledge and information sufficient to determine the truth of the allegations in paragraph 6 of the Complaint, and they are therefore denied.

7. Denied.

### **Jurisdiction and Venue**

8. Admitted in part, denied in part. It is admitted that this Court has subject matter jurisdiction under 28 U.S.C. § 1331 and §1343, and that venue is proper. The remaining allegations in paragraph 8 are denied.

9. Denied.

10. It is admitted that venue is proper.

### **Facts**

11. Admitted in part, denied in part. It is admitted that plaintiff was enrolled at DSU in September 2001, and that he received a track scholarship. The remaining allegations are denied.

12. Admitted in part, denied in part. It is admitted that plaintiff was awarded a track scholarship by DSU. It is denied that plaintiff was guaranteed or promised unconditional continuation of the scholarship or admission to DSU for five years.

13. Denied.

14. It is admitted that Plaintiff passed the classes he took at DSU.

15. Denied.

16. Denied.

17. Denied.

18.-24. Denied. After reasonable investigation, answering defendant is without knowledge and information sufficient to determine the truth of the allegations in paragraphs 18 through 24 of the Complaint, and they are therefore denied.

25. Denied.

26. Admitted in part, denied in part. It is admitted that plaintiff has contacted DSU since he was expelled. The remaining allegations in paragraph 26 are denied.

#### **First Cause of Action**

27. Answering defendants incorporate their responses to paragraphs 1 through 26 of the Complaint by reference as if fully set forth herein.

28. Denied.

29. Denied.

30. Denied.

#### **Second Cause of Action**

31. Answering defendants incorporate their responses to paragraphs 1 through 30 of the Complaint by reference as if fully set forth herein.

32. Denied.

33. Denied.

34. Denied.

### **Third Cause of Action**

35. Denied.

36. Answering defendants incorporate their responses to paragraphs 1 through 35 of the Complaint by reference as if fully set forth herein.

37. Admitted.

37. (sic) Admitted.

38. Denied.

### **Injuries Sustained**

All allegations of injury are denied.

### **Relief Sought**

Defendants deny that plaintiff is entitled to any of the relief sought, and request that the complaint be dismissed with prejudice.

## **AFFIRMATIVE DEFENSES**

### **FIRST AFFIRMATIVE DEFENSE**

Plaintiff's First Cause of Action fails to state a claim for which relief may be granted.

### **SECOND AFFIRMATIVE DEFENSE**

Plaintiff's Second Cause of Action fails to state a claim for which relief may be granted.

### **THIRD AFFIRMATIVE DEFENSE**

Plaintiff's Third Cause of Action fails to state a claim for which relief may be granted.

**FOURTH AFFIRMATIVE DEFENSE**

To the extent Plaintiff's Complaint asserts a cause of action for violation of his Seventh Amendment rights, the complaint fails to state a claim for which relief may be granted.

**FIFTH AFFIRMATIVE DEFENSE**

To the extent Plaintiff's Complaint asserts a cause of action for violation of the Equal Protection Clause, that claim fails to state a claim for which relief may be granted.

**SIXTH AFFIRMATIVE DEFENSE**

To the extent Plaintiff's Complaint asserts a cause of action for violation of his substantive due process rights, the complaint fails to state a claim for which relief may be granted.

**SEVENTH AFFIRMATIVE DEFENSE**

To the extent Plaintiff's Complaint asserts a cause of action for violation of his Eighth Amendment rights, the complaint fails to state a claim for which relief may be granted.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiff does not have any property rights in continued education at DSU.

**NINTH AFFIRMATIVE DEFENSE**

To the extent Plaintiff's Complaint asserts a cause of action for violation of his civil rights based on racial discrimination, the complaint fails to state a claim for which relief may be granted.

**TENTH AFFIRMATIVE DEFENSE**

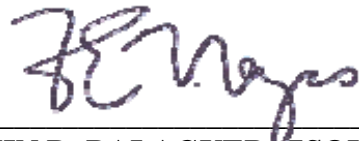
Plaintiff's Claim for relief under the Declaratory Judgment Act, 28 U.S.C. §2201, should be dismissed for failure to join all necessary and indispensable parties.

**ELEVENTH AFFIRMATIVE DEFENSE**

To the extent Plaintiff's Complaint asserts a cause of action for violation of his civil rights under 42 U.S.C. § 2000a (public accommodation), the complaint fails to state a claim for which relief may be granted.

**WHITE AND WILLIAMS LLP**

Dated: October 25, 2005

A handwritten signature in purple ink, appearing to read "F.E. Noyes", is positioned above a horizontal line.

**JOHN D. BALAGUER, ESQUIRE (#2537)**

**FRANK E. NOYES, II, ESQUIRE (#3988)**

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*Attorneys for All Defendants*



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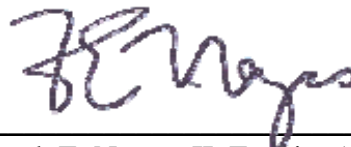
Defendants.

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**CERTIFICATE OF SERVICE**

I, Frank E. Noyes, II, Esquire, hereby certify that on this 25<sup>th</sup> day of October, 2005, I caused a true and correct copy of the foregoing **ANSWER WITH AFFIRMATIVE DEFENSES OF DREXEL BALL** to be served upon Plaintiff by First Class Mail, postage prepaid, as follows:

Prince Allen Marsh (pro se)  
434 Simpson Place  
Peekskill, NY 10566



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Frank E. Noyes, II, Esquire (#3988)